



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,863	10/17/2003	Richard Allen	292915	9575

25764 7590 11/25/2009

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER

BRADFORD, CANDACE L

ART UNIT	PAPER NUMBER
----------	--------------

3634

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

11/25/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

e-OfficeActionHNI@faegre.com
dweiss@faegre.com

Office Action Summary

Application No.

10/687,863

Applicant(s)

ALLEN ET AL.

Examiner

CANDACE L. BRADFORD

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The declaration under 37 CFR 1.132 filed 8/10/09 is sufficient to overcome the rejection of claims based upon 35 U.S.C. 103(a) as being unpatentable over Wegner (5544689). The examiner agreed the Wegner reference by itself did not teach a force acting upon the window maintaining it in position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7, 8, 10, 12-23, 29, 30 and 32-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wegner (5544689) in view of Kenkel. et. al. (6256931). Wegner discloses vertical jambs 40, comprising vertical channels, as best seen in Figure 1, a window sash movable in the vertical channels through a range of motion, a retractable screen assembly attached to the door extending and retracting across an opening created by movement of the window sash, the retractable screen assembly, a roller 12, a flexible screen 16, positioned above the movable window sash and attached at a first and second end to the movable sash, a biasing mechanism/constant force spring 34, but fails to teach a biasing mechanism adapted to apply a torque to the roller generating a positioning force on the window sash equal to at least 5%-20%, 40%, 50%, 60% or 80% of the force of gravity acting on a window sash, such that the window sash can be positioned at a desired location along the

vertical channels, wherein once positioned the moveable sash is retained at the desired location by the positioning force until acted on by an external force other than the force of gravity. Kenkel et. al. teaches the utility of window system having a frictional force maintaining the window sash in place, wherein gravity or another force is needed to move the window sash, as recited in column 7, lines 50-54. The use of constant balanced force to maintain a window in position is commonly used in the art so that no locks are needed to maintain the window in position. Therefore, it would be obvious to one of ordinary skill in the art to provide the window system of Wegner with a positioning force acting on the window sash as taught by Kenkel et. al. that no locks are needed to maintain the window in position. The examiner would like to note that specific force is the subject of routine experimentation and a matter of obviousness determined by the other force (besides the spring) that keeps the sash in place (frictional force).

Therefore, it would have been further obvious in view of the structure advanced above to provide a method of operating a movable sash in a door, which can be slidably engaged/attached with a window sash, apply a positioning force to the window sash, retracting/drawing the flexible screen, retaining a portion of the flexible screen in the vertical channels, applying a breaking force when the sash moves in a downward direction, releasably engaging the sash positioning device with at least one contact surface, continuously applying torque to the roller, while producing no new and unexpected results.

Claims 3, 4, 11, 26 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wegner (5544689) in view of Kenkel. et. al. (6256931) as applied to claims 1, 2, 7-10, 12-22, 29 and 30 in view of Thomas et. al. (6618998). Wegner as advanced above fails to disclose a counterbalance system for a hollow core door as a lower window sash. Thomas teaches the utility of a counterbalance system, as recited in column 1, lines 32-34 and a hollow core door as recited in column 3, lines 56-60. The use of a hollow core door is commonly used in the art because they are lightweight and durable, the use of counterbalance allows for various positioning of the sash. Therefore, it would have been obvious to one of ordinary skill in the art to provide the window screen attachment system of Wegner with a counterbalance system and a hollow core door as taught by Thomas et. al. so as to provide a light weight durable door and to allow for various positioning of the sash.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wegner (5544689) in view of Kenkel. et. al. (6256931). Kenkel et. al. further discloses the utility of frictional force acting between the window sash and the vertical channels, as recited in column 7, lines 50-54.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wegner (5544689) of Kenkel. et. al. (6256931). Kenkel et. al. further discloses a frictional force maintaining a window in position between vertical channels. The window is retained at any position along the channels until acted upon by an external force.

Claims 24, 25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wegner (5544689) in view of Starr (2350200). Wegner discloses a

vertical jambs 40, comprising vertical channels comprising a upper window sash of a door, as best seen in Figure 1, a window sash movable in the vertical channels, a sash positioning device attached to the window sash and releasably engagable with at least one contact surface on the vertical channel, such that the sash positioning device can engage the vertical channel at an infinite number of locations, a retractable screen assembly attached to the door comprising, a housing having 36,38, an opening, a roller 12, maintained in a housing and a flexible screen 16, attached at a first end to the roller and at a second end to an upper edge of the movable window sash, the flexible screen being wrapped about the roller and extending through the opening a retraction mechanism providing a continuous positioning force on the window sash, but fails to disclose a deflection bar. Starr teaches the utility of a deflection bar 47, 48 positioned adjacent the roller 22, and engaging the flexible screen 25, the deflection bar providing a deflecting force to stretch the flexible screen tight and position the flexible screen in a desired plane, wherein the window sash comprises the upper window sash, wherein the retractable screen assembly is attached to the top and bottom of the door, as best seen in Figure 1. The use of a deflection bar is commonly used in the art to stretch a flexible screen. Therefore, it would have been obvious to one of ordinary skill in the art to provide the screen apparatus of Wegner with a deflection bar as taught by Starr so as to stretch the flexible screen.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDACE L. BRADFORD whose telephone number is (571)272-8967. The examiner can normally be reached on 9am until 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Candace L. Bradford
Patent Examiner
Art Unit 3634
November 20, 2009

/Alvin C. Chin-Shue/
Primary Examiner, Art Unit 3634